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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

UNITED STATES OF AMERICA, Plaintiff, vs. K. JEFFERY KNAPP, Defendant.	CR 19-03-H-CCL GOVERNMENT'S SENTENCING MEMORANDUM
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FACTUAL AND PROCEDURAL BACKGROUND

I. The Defendant's Background.

The defendant is 42 years old. He has two prior felony convictions from 1994, several non-scoring misdemeanors between 2001 and 2005, and a criminal history category of I.

II. The Instant Offense.

Knapp stands convicted of prohibited person in possession of a firearm.

PSR ¶ 9. The presentence report has calculated Knapp's total offense level as 26 and his criminal history category as I (zero scored criminal history points). PSR ¶¶ 36, 43-44. The defendant faces a maximum of ten years of imprisonment. PSR ¶ 99. The advisory guideline range is 63-78 months. PSR ¶ 100. The United States does not object to this calculation of a guideline sentence range.

LEGAL ANALYSIS

The Court's task is to impose a sentence that is procedurally and substantively reasonable. *United States v. Booker*, 543 U.S. 220, 261 (2005). To arrive at a procedurally reasonable sentence, the Court must first properly calculate the advisory sentencing range and then consider the factors in 18 U.S.C. § 3553(a). *United States v. Mohamed*, 459 F.3d 979, 984 (9th Cir. 2006). Ultimately, pursuant to 18 U.S.C. § 3553(a), the Court must impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in 18 U.S.C. § 3553(a)(2). Such a sentence is substantively reasonable.

In this instance, the United States does not dispute the advisory sentencing guideline range calculated by the probation officer. Assuming the Court finds that the total offense level is 26, the United States recommends a sentence of 63 months of imprisonment, three years of supervised release, and a \$100 special

assessment. Such a sentence will be sufficient, but not greater than necessary, to comply with the purposes articulated in 18 U.S.C. § 3553(a)(2).

Title 18 United States Code Section 3553(a)(2) provides that the sentence imposed in a criminal case should: (a) reflect the seriousness of the offense; (b) adequately deter criminal conduct; (c) protect the public from further crimes by the defendant; and (d) provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner. In this case, the government recommendation is based upon how Knapp used the firearms that he possessed. Several times Knapp has threatened his neighbors, contractors, and deliverymen who were near Knapp's property. PSR ¶¶ 13-19. These incidents included Knapp firing warning shots near a FedEx driver and a neighbor. PSR ¶¶ 13-15 and 18.

A sentence as advocated by the government will accomplish the sentencing goals in § 3553(a)(2), above. Specifically, such a sentence will reflect the seriousness of the offense and protect the community from further threats. In conclusion, the government asserts that 63 months of imprisonment followed by three years of supervised release will be both procedurally and substantively reasonable, since it will be the result of thoughtful consideration of a properly calculated advisory sentencing guideline range and the imposition of a sentence

sufficient, but not greater than necessary, to comply with the purposes in 18 U.S.C.
§ 3553(a).

DATED this 9th day of April, 2020.

KURT G. ALME
United States Attorney

/s/ J. Thomas Bartleson
Assistant U.S. Attorney
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April 9, 2020, a copy of the foregoing document was served on the following persons by the following means:

- (1-2) CM/ECF
- ☐ Hand Delivery
- ☐ U.S. Mail
- ☐ Overnight Delivery Service
- ☐ Fax
- ☐ E-Mail

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